PF 33 of 93

G. R. S. IX-5]

Previous references.

LR 46—93

1892—93

~~192~~ .

(LR)

File No. 170-92

Serial Nos. 1—5

Later references.

LR 97—98

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—5

Major ~~Part~~ B for September 1893.

SUBJECT.

Appeal of Narayanappa and Krishnappa Regarding the Shanbhogi of Gummaghatta in Pavagada Taluk

Indexed

WD 2233—GPB—20,000—14-6-20

118

MYSORE

1-28

1st 17-9-92

Precis

Appeal Suit No 97 of
1892-93.

Appellants (Plaintiffs):—
1 Naranappa
2 Krishnappa
of Gummaghatta, Pavagada Taluk

Respondents (Defendants):—
1 Mandlappa
2 Venkataramanappa
of the same village.

On the 18th of August 1891, the Plaintiffs filed a suit in the court of the Deputy Commissioner of Tumkur for the recovery of Shanbhoge of Gummaghatta from the 2nd Defendant. The plaint was to the effect that the Plaintiffs were the sons of the 1st Defendant, that the office of Shanbhog of Gummaghatta was held by Annaiyappa, 1st Defendant's uncle, then by Sinappa

1st Defendant's brother, and from 1868 to 1878 by the 1st Defendant himself, that in 1878, the 1st Defendant who was then much grieved on account of his son Venkatappa's connection instead of getting his Shanbhogi registered in the name of his other sons who were then minors, resigned the office in favour of one Shimmappa, nephew of the former Registrar Mudappa; that this resignation was illegal, that on the ground of this resignation, instead of the said Shimmppa, the 2nd Defendant who had not been ~~and~~ mentioned as Hisredar in the register, was on the Amildar's recommendation ordered to be registered by the District authorities and had held the office from that time, that the 1st Plaintiff attained majority on 3rd August 89 from which date the cause of action accrued, and that therefore the 2nd Defendant's name should be removed from the register, the Plaintiffs be registered as Shanbhogs and the 1st Plaintiff be appointed to do the work.

2. The 1st Defendant files a written statement to the effect that everything mentioned

in the plaint was true, but the resignation mentioned there was not given with his free will but at the bidding of the Amildar, that he subsequently complained of this to the Deputy Commissioner but no enquiry was held; that he represented to the Amildar that he had still 4 sons, but his representation was not recorded; and that he had no objection to the Plaintiffs' appointment

3. The 2nd Defendant's written statement is to the effect that the 1st Plaintiff is 23 years old and therefore his suit is barred by the Law of Limitation, that no cause of action has arisen and that mentioned in the plaint is wrong, that the 2nd Defendant's father Dodda Sinappa held, like other Hissedars, the Shanbhogi in question in his turns, till his death, that the 1st Defendant was convicted of having misappropriated certain property so as to cause loss to Govt, in Crim. Case No 226 of 1877

on the file of the Taluk Magistrate of Pavagada, and therefore he and his family have lost the hak to the office, that the 1st Defendant, seeing that even if he did not resign the office, the hak will not remain to him or to his family, gave the resignation, that the 2nd Defendant was appointed to the office not because the 1st Defendant resigned it, but because the latter and his ~~present~~ heirs were not fit to hold the hak, and ~~that~~ because the former was a Hakdar; and that he has held it for 13 years. ~~without any~~ satisfactorily.

4. The Amildar of Pavagada to whom the ~~said~~ petition was sent for enquiry & ~~report~~ framed the following issues:—

(1) What is the age of the 1st Plaintiff in this suit? Is the suit within the time prescribed by Law?

(2) Has ~~the~~ cause of action arisen, and is the cause of action mentioned by the Plaintiffs ~~their~~ right?

(3) ~~Whether~~ Might the 1st Defendant ~~not~~ resign the office in favour of others, while his sons existed? Does that resignation

5

resignation affect the rights of the Plaintiffs? Might the 2nd defendant be appointed while the Plaintiffs were acting?

(4) Have the authorities appointed the 2nd Defendant against the Razinama, and if so why, and is this just?

(5) Die the 2nd Defendant, his father and grandfather mentioned in the register as Sub-Shareers or otherwise? Has the 2nd Defendant's father enjoyed the hak, and is the 2nd Defendant a Hakdar of this Shanbhogi?

(6) Was the Shanbhogi register in the name of the 2nd Defendant on his hereditary right, or did it pass to him on the resignation of the 1st Defendant?

(7) Does not the 1st Defendant's offence deprive his heirs of their hak? Did he lose the office by this offence or by resignation?

(8) May the 2nd Defendant be now ousted from his office?

(9) What relief are the Plaintiffs entitled to?

5 The Plaintiffs filed exhibits A to L, and the 2nd Defendant filed exhibits 1 to 24:—

A is an extract from the "To" register containing the Amildar's Ittilla No 404 dated 30th October 1878, wherein the Amildar reports that Muddappa has resigned the Shanbhogi of Gummaghatta and that Venkataramanappa who is mentioned in the register as a Hissedar and who is ~~off~~ competent may be appointed to the office.

E & F are copies of the 1st Defendant's Razinama and deposition respectively dated October 1878, which are to the effect that he ~~was~~ has been getting the Shanbhogi work done by his son, that as his son is criminally tried & punished, he (1st Defendant) does not want the office, nor is he able to do the work, and that therefore his name should be removed from the register and Shimmappa his "Warasdar" be appointed to the office.

G. Extract from the Shanbhogi register of 1847. ~~in which~~

H Genealogical Table of the family of the Plaintiffs & Defendants.

7

I. Extract from the Baravaluti Register of 1864, in which in the column of Kuttedars, the Mudlappa, Venkataramanappa, Venkatachalappa & Timmala gunappa are stated to be of / "Kisse" and Bhiksinappa and Subbaiya of the others, and Mudlappa, Subbaiya and Sinappa are mentioned in the column of persons actually doing work.

I. Horoscope, which is to the effect that on the 3rd day of the 2nd fortnight of Shravana in the year Rajotpatti*, a son was born to Mudlappa Shanbhog of Gummaghatta.

* 1871-72.

(18) Copy of Judgment in Crem. Suit No 226 of 1877 on the file of the Taluk Magistrate of Pavagada, in which the 1st defendant was convicted of theft & was fined Rs 12, under section 379.

(20) Statement shewing the village establishment &c of 1864.

* Name of the village - Kasba Gummaghatta

* *

Registerdars Kakdars – Mullappa, Venkappa; their fathers Puttavenkatappa & Annaiya

/ To Mullappa's / Nisse

/ Mullappa himself

/ Sinappa. His Nisedars –

/ Sirumalaginappa

/ Venkatachalappa

/ Sinappa's son Chikvenkatramanappa.

3

2

/ To Venkappa's / Nisse

/ Venkappa's grandson Subbanna.

/ Sinappa

2.

2.

x x x x x

(23) Copy of Judgment in Crim. Case No 88 of 1878 on the file of the Taluk Magistrate of Pavagada.

(24) Extract from a Statement containing the order (31-10-78) directing the appointment of the 2nd Defendant in place of the 1st Defendant

6. The Plaintiffs examined 6 witnesses, and the 2nd Defendant examined 3 witnesses.

7. The 1st Defendant Mudlappa (Plffs' 2nd Witness) deposed as follows:

"The Plaintiffs are my sons; the 2nd Defendant is my "Dayádi". He has been holding the Shanbhogi of Gummaghatta for 10 or 12 years. I was doing the work before. My son suffered punishment. I was in grief. I was suffering from fever & ague. I represented to the then Amildar that the office should be given to my sons. But the Amildar caused me to be driven out..... Then I gave Razinama in favour of Shimmappa. But the Amildar did not grant the Razinama, and registered the 2nd Defendant.

× × × ×

"The Shanbhogi has two "Bharis" (shares). One is ours. In our Bhari we are three viz, myself, my brother Sinappa and my uncle's son Subbanna..... The other Bhari is Mudlappa's.... Mudlappa's brother Venkatadasappa has two sons viz. Venkataramanappa and Shimmappa.....

The genealogical table (Ex. H.) is correct.... Venkataramanappa mentioned in Column 8 of Ex. I is ×× and Chikka Sinappa mentioned there is my brother. Venkatadasappa's son ×... 1st Defendant

father was Doddasinappa

× × × ×

Except the 2nd defendant, there is no one in the family, called "Sinappa's son Venkataramanappa".... This name mentioned in Ex. (19) refers undoubtedly to the 2nd defendant..... I do not know in what year the 2nd defendant's father did the Shanbhogi work.... ... Exhibit (21) contains the signature of the 2nd defendant's father, as also those of my brother Sinappa and Subbanna... "

8. The 2nd defendant Venkataramanappa (Plaff's 3rd witness) deposed to the following effect:—

"... My father died when I was 7 or 8 years old..... The Chitthas, Exhibits (1)* & (3) appear to be in my father's writing..... The exhibit (1) contains my father's signature, and from this it appears that my father held the Shanbhogi in that year. ..... Venkataramanappa mentioned in column 8 of Ex. (7) is myself. This is supported by the details mentioned in Exhibit (19),* viz. "Sinappa's son Venkataramanappa"

× × × × × "

On cross examination he states that he made the last statement only on the ground of the mention in Ex. (19),

* Exhibits (1) & (6) are not forthcoming in the file.

* This is an extract of Ex. (20)

that he was then 8 or 9 years old and that he had not gone to the Taluk Cutcherry.

9. The 4th witness Venkata-ramanappa son of Venkata-dasappa stated that his uncle was a registerdar of the Shanbhoji; that Venkataramanappa — mentioned in Ex. I was himself, but Venkataramanappa mentioned in Ex (20) was the 2nd Defendant.

10. The 5th ~~defen~~ Witness, Narnappa ~~pass~~ maternal uncle of the Plaintiffs produced the horoscope (Ex L) and swore that it was ~~of~~ the 1st Plaintiff's horoscope..

× 1878-79

11. The 6th witness deposed that one day in the year Bahudhanya× he went to the Taluk Cutcherry; that ~~while~~ he stood ~~there~~ near the door of the Amildar's room, that officer told the 1st Defendant that he must resign his office & that he was unable to do the work., that the 1st Defendant replied that he had sons, but the Amildar said that he must give Razi-nama; & that ~~he~~ the 2nd Defendant presented the Razinama, Ex E.

the 1st Plaintiff (2nd Defendant's 1st witness)

12. Narasinga Row (2nd Defendant's 2nd witness) deposed as follows:—

" I was the Revenue Gumasta in this Taluk for about 17 years from 1857. Then I was transferred to the Dodderi Taluk. After 5 years I became the Sagadi Gumasta of this Pavagada Taluk. . . . . 2nd Defendant's father was Dodda Sinappa. He lived in Gummaghatta. He was doing the work in his turns. Doddamudlappa, 2nd Defendant's father & 3 others held the Shanbhogi by turns, on their own rights, and they are the Hakdars to the office"

× × × × × × "

13. Venkatachalaiya (3rd witness) deposed to the following effect:—

" Doddasinappa, 2nd Defendant's father was a Hisedar to the Shanbhogi of Gummaghatta. He had ¼ share of the whole office. . . . He was doing the work in his turns. . . . I held the Pateli of the village in 1864. . . . . Venkataramanappa mentioned in the register of 1864 is the 2nd Defendant.

× × × ×

I swear that the Hisedars

were doing the duties of the office by turns on their own rights, that exhibits (1) & (13) were written by Doddasinappa himself, and that the signature in Ex.(21) is his.

" x x x x x "

14. The General Assistant Commr passed the following decision:—

dy 6th July 92.

"

x x x x x

It has been admitted by both the parties that the 1st Defendant was the last registerdar and that he held the office. There is no express order to shew that he was desmissed on account of bad conduct. Nor is there any order to the effect that his family was deprived of the hak. From the records now before me it is clear that the 1st Defendant's loss of registry & of possessing the office was caused only by his resignation. By such resignation he lost his hak only; his legal heirs, the Plaintiffs have not lost their hak. According to Hindu Law and

and the Revenue ~~Regulation~~ Code, the office, after it was lost by the 1st Defendant according to his Razinama, ought to have been registered in the name of one of his sons the Plaintiffs, and if ~~he~~ he was a minor a Gumasta ought to have been appointed. The existence of the 1st Defendant's sons, the Plaintiffs is not mentioned in the records of 1878, and it is concealed in the Amildar's report. Therefore it ~~needs to be~~ said I have to say that justice was not done in this respect

cr 13. Therefore ~~it is~~ I have decided that the Plaintiffs should be noted in the Barabaluti Register, as Hakdars to the Shanbhogi in question. As the 2nd Defendant was appointed by ~~Sardar Baden~~ under the order of Government, and has enjoyed the hak for more than 12 years, his removal from the office will be contrary to the late Chief Comm's circular no $\frac{1148}{64}$ of 1867. And such removal does not seem to be proper. Therefore I have decided that the 2nd Defendant should continue to hold the office as before, during his life time, and that when the Shanbhogi in

question becomes vacant, the question of appointing one of the Plaintiffs who may appear to be competent, will have to be considered. Each party to bear his own cost."

15. The Plaintiffs appealed against the above order to the Deputy Commr and prayed that the office may be given to them But the Deputy Commr* rejected the appeal, stating "as Respondent is admittedly a 'hakdar' there is no reason to oust him, and the rule of rotation has not been passed to accede to the request of the Plaintiffs that they may be allowed a chance by reason of the Respondent having held the office since 1878."

* 17-11-92

16. The present appeal to Government is against the above order of the Deputy Commr. The grounds of appeal are —

I that the Lower courts having concurrently found that the Plaintiffs were the Hakdars

to the office of Shanbhog, ought to have decreed to them the transfer of the office,

II that the Lower Appellate court erred in holding that the Respondent was a Hakdar and therefore entitled to hold on to Plaintiffs' exclusion, &

III that the Deputy Commr's judgment is in other respects against law & justice.

S.V. 18/8/93

17

(6)

Appeal No 97 of 1892-93

Appellants	V/s	Respondent.
1. Narrappa		Venkatramanappa
2. Krishnappa		by Mr. K. T.
by Mr. B. Sreenivasiyar		Narsimhiengar

Facts of the Case.— The appellants seek to recover possession of the office of Shanbhog of Gummagatta in the Parageda Taluk from the Respt Venkatrama-nappa who, being a distant cousin of their father and a sharer in the hak, was appointed as Shanbhog on the resignation of the office by their father in October 1878. The Gen. Asst Commr who tried the suit filed by appellants, held that the resignation of the office by their father did not affect their rights and directed that their names be registered as Hakdars and their claims given consideration when the office became vacant. Their appeal to the Dy Commr for present possession was rejected on the ground that in the absence of a rule sanctioning rotation the Respondent who was a Haikdar could not be ousted

It is urged on behalf of the appellants that no relief has been granted to them, though they have been found by both the Courts below to be Hakdars. The Right, which is also known as Hakdari, is admittedly [illegible] and [illegible] since some 1878 and [illegible] cannot be permitted to oust him. The order of the Lower Court is affirmed and this second appeal dismissed.

A Ramachandra Iyer
Asst to Hon Judge

(General Serial No. 32.)

1893. 1-12

No. 2127

Name of Petitioner. Vatnappa and Krishnappa

Village. Gummaghatta

Taluk. Pavagada

District. Tumkur

Date of Arzi: 15/2/93

Date of Receipt. Do.

Date of Disposal.

No. of Enclosures. 3

ABSTRACT.

Petitioners appeal against the decree of the Dy Commissioner of Tumkur in Revenue Appeal Case No 2 of 1892, in re the Shanbhogi of Gummaghatta in the Pavagada Taluk.

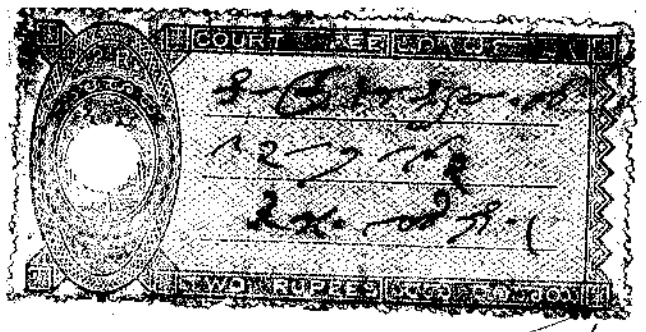
S.R. 16/2

Council Case

1. Stamp sufficient
2. Copy of order produced
3. In time.

Proceedings to be called for

Mysore Govt. Central Press Bangalore—7-9-92,—4000.



2-8

1

Mysore
No.
Petn dd.
15/2/93

Two Rupees stamp

His Excellency the Dewan
of Mysore.

A.S. No 97
92-93. The humble petition
of Naranappa and
Krishnappa Sons
of Moodlappa - Re-
siding - at - Goomm
Ghutta - Pavagada Talu

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. No. 2127 A
DATE 15-2-93

3 - 00 - 00
8-9-93

The Petitioners above named
most respectfully beg to appeal
against the decree of the Deputy
Commissioner of Tumkur - in
Revenue appeal case No: 2 of 1892
for the following among other
reasons:—

I. The Lower Courts having
concurently found that the
plaintiffs were the Sheikdars
to the office of Shanbogue —
ought to have decreed to them
the transfer of the office.

II. The Lower Appellate
court erred in holding that
the

Respondent was a Huckdar and therefore entitled to hold on to Plaintiff's exclusion.

III. The Deputy Commissioner's Judgment is in other respects against law and justice & in not allowing Plaintiff's cost

Bangalore. } Bruce Lewis
15th Feb'y/93. } Advocate for appellt.

Pet 1080 — 24 — 30-Dogs — 27/2/93

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT

OFFICIAL MEMORANDUM.

The accompanying Petition No. 2127 dated 15—2—93 received at the Dewan's Office from Narnappa & Krishnappa of Gumnaghatta, Pavagada Taluk appealing against the Asstt's decree in regard to the Shanbogi of the said village,

is forwarded, together with its three enclosures, to the Deputy Commissioner, Tumkur Distt, for submission of Progs with a report on the facts of the case & on the points taken in the petition

2. The Petn should be returned

By Order,

Draft

23/2/93

Chief Secretary.

BANGALORE, 23 Feby 1893. 27

M. G. C. P. Bangalore.—21-11-92—8,000.

From the Dy Comr Tk No 724 Dy 28/2/93

(General Serial No. 60.)

1893

From

The Deputy Commissioner
Tumkur District.

To

The Chief Secretary to the ~~Govt.~~ Govt. of Mysore.

Dated 28th February 1893.

Despatched 1st March 93.

Received

Enclosures No. 4 (Record separately sent.)

General No. 724

No.

Chief Secretary's No. Petn. 1080 dated 23rd February 1893.

Re Submitting the record connected with the appeal Petition of Naranappa & Krishnappa of Gummagatta in the Pavagada Taluk; and returning the enclosures.

Petn dr.
Mark
2/3

Put up
for order
both petitions
16/3 - all

Posted 6-4-Aug-93

M. G. C. P. Bangalore.—27-1-93.—5,000.

3/3/93

Deputy Commissioner's Office
Tumkur District
Tumkur 28th February 1893

No. 724.

Z.

(4)

The Chief Secretary to the
Government of Mysore

Sir

Adverting to your official memorandum No. 1080 of the 23rd instt, I have the honor to submit herewith the record connected with the appeal petition of Narasappa and Krishnappa of Gummagatta in the Pavagada Talk.

2 The enclosures of the memorandum are herewith returned.

I have the honor to be
Sir,
Your most obedient servant

Deputy Commissioner

(General Serial No. 30.)

89.

From 7-93

To Dy Comr. Dumka
District

L.A. 170-92-4

Dated 1-9-93

Despatched 2nd.

Received

Enclosures No.

General No. 4349
P.F. No. 33-93.

To the Memo No 4889 dt 16/18 · 9-93
P.F. 33-93

From - Dr — No 2418 dt 15/18 - 9-93.

Before the Government of *His Highness* the Maharaja of Mysore.

Appeal No. 97 of 1892-93

Appellants	Vs.	Respondent.
1. Narsappa 2. Krishnappa by Mr. B. Srinivasiengar		Venkatramanappa by Mr. K. T. Narsimhien-gar

~~Decision.~~

Facts of the case.

The Appellants seek to recover possession of the office of Shanbhog of Gummagatta in the Pavagada Taluk from the Respondent Venkatramanappa who, being a distant cousin of their father and a sharer in the hak, was appointed as Shanbhog on the resignation of the office by their father in October 1878. The General Assistant Commissioner, who tried the suit filed by Appellants, held that the resignation of the office by their father did not affect their rights and directed that their names be registered as Hakdars and their claims given consideration when the office became

vacant Their appeal to the Deputy Commissioner for present possession was rejected on the ground that, in the absence of a rule sanctioning performance of duties by rotation, the Respondent, who was a Hakdar, could not be ousted It is urged on behalf of the Appellants that no relief has been granted to them, though they have been found by both the Courts below to be Hakdars.

Decision.

The Respondent, who is also an Hakdar is admittedly in possession and enjoyment of the office since 1878, and Appellants cannot be permitted to oust him The order of the Deputy Commissioner is affirmed and this second appeal dismissed.

"By order

Redraft

Chief Secretary.

No. 4369 dd 1-9-93
P.S. 33-93 9-9-93

Copy forwarded to the Deputy Commissioner, Tumkur District, with the records received with his No. 724 dated 28th February 1893.

By order

Chief Secretary

No. 97
2127

10

8-9-93

MYSORE DEWAN'S OFFICE,
PETITION DEPARTMENT,
8- 9- 1893

L.R 170-92-5

Endorsement granted to Narnappa and Krishnappa of Gummaghatta, Pavagada Taluk, Tumkur District (by Mr. B. Sreenivasaiengar),

in reply to their Petition Registered No. 2127 A.S.97 dated 15 February 1893 appealing against the Deputy Commissioner's decree in regard to the Shanbhogi of the said village.

Petitioners are informed that the Respondent, who is also an Hakdar and is admittedly in possession and enjoyment of the office since 1878 cannot be ousted and that the Appellants ~~and that the Appellants can not be permitted to oust him. The order of the Deputy Commissioner is affirmed and this second~~ appeal is therefore dismissed.

The enclosures are herewith returned.

"By Order"

~~Re~~draft.

Chief Secretary.

Mysore Govt. Central Press, Bangalore.—9-2-93—2000.